

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

United States of America,

Plaintiff,

v.

Civil No.
Honorable
Magistrate

\$1,298,202.99 Currently on Deposit in
Fifth Third Bank Investment Account
Number 51-51-000-9358474,

Defendant *in rem*,

/

COMPLAINT FOR FORFEITURE

NOW COMES Plaintiff, the United States of America, by and through its undersigned attorneys, and states upon information and belief in support of this Complaint for Forfeiture *in rem* that:

JURISDICTION AND VENUE

1. This is an *in rem* civil forfeiture action pursuant to 18 U.S.C. § 981(a)(1)(C) resulting from a violation of 18 U.S.C. § 1344.
2. This Court has original jurisdiction over this proceeding pursuant to 28 U.S.C. § 1345 as this action is being commenced by the United States of America as Plaintiff.
3. This Court has jurisdiction over this forfeiture action,

pursuant to 28 U.S.C. § 1355(b)(1)(A), as the acts giving rise to the forfeiture occurred in the Eastern District of Michigan.

4. Venue is proper before this Court pursuant to 28 U.S.C. § 1391(b)(2) as a substantial part of the events or omissions giving rise to the Government's claims occurred in the Eastern District of Michigan.

5. Venue is also proper before this Court pursuant to 28 U.S.C. § 1395(a), (b) as the Defendant *in rem* was found and seized in the Eastern District of Michigan.

DEFENDANT *IN REM*

6. The Defendant *in rem* consists of: One Million Two Hundred Ninety-Eight Thousand Two Hundred Two Dollars and Ninety-Nine Cents (\$1,298,202.99) currently on deposit in Fifth Third Bank Investment Account Number 51-51-000-9358474 (hereafter referred to as the "Defendant Funds").

7. The contents of the above described account were frozen in place in or about November 2014 by federal seizure warrant served on Fifth Third Bank by Special Agents of the Federal Bureau of

Investigation (“FBI”).

FACTUAL BASIS FOR CIVIL FORFEITURE

8. The Defendant Funds are forfeitable to the United States pursuant to 18 U.S.C. § 981(a)(1)(C), as property, real or personal, which constitutes or is derived from proceeds traceable to a violation of 18 U.S.C. § 1344, and is supported by a preponderance of the evidence, including but not limited to, the following:

- a) On September 28, 2007, a mortgage was obtained by the short seller in the amount of \$2,700,000 from Washington Mutual Bank (“WaMu”) for real property located on Old Orchard Trail, Orchard Lake, MI (hereafter, “Old Orchard Trail Property”).
- b) On March 4, 2010, the short seller submitted a short sale request to JPMorgan Chase Bank (“Chase”), the financial institution that assumed the mortgage on the Old Orchard Trail Property from WaMu. Included with the request was a Home Affordable Modification Program Hardship Affidavit signed by the short seller, under penalty of perjury, that

indicated, among other things, that the short seller had insufficient funds to maintain the payment on his mortgage loan and cover basic living expenses.

- c) On May 31, 2010, the Old Orchard Trail Property was sold via short sale for \$1,600,000.00 to a nominee. The \$1,601,111.49 in funds used to purchase the property was in the form of three cashier's checks obtained by the short seller on May 20, 2010 by withdrawing funds from accounts in his name. These checks were provided to the title company and used by the nominee to purchase the property.
- d) As a result of the short sale, Chase cancelled \$1,298,202.99 of debt on the mortgage loan for the Old Orchard Trail Property.
- e) On November 10, 2010, the property was re-sold to a third-party buyer for \$2,210,000. A check for \$2,109,287.36, was dispersed by the title company as proceeds from the sale. The check was endorsed by the nominee and then endorsed by the short seller, who deposited the check into an account

in his name.

- f) The short seller was the sole owner of a Fifth Third Bank (FTB) checking account. Account records show a \$2,109,287.36 deposit into the account on November 10, 2010, and a subsequent \$2,000,000.00 transfer out of the account on November 17, 2010, which was noted as a “trust credit.”
- g) Account records for FTB Investment account 51-51-000-9358474 show a cash contribution of \$2,000,000.00 made to the short seller’s account on November 17, 2010. This deposit was noted as a “transfer from checking acct ending 8761 per instructions from client dtd 11/16/10.” FTB Investment account 51-51-000-9358474 is also in the short seller’s name.
- h) Account records for FTB Investment account 51-51-000-9358474, for the period from November 17, 2010 to the time of seizure show that the balance of the account never fell below \$2,000,000.00.
- i) In April 2012, a Vice President of Chase Bank advised FBI

that, had Chase known the short seller was buying his own property with cash, Chase would not have approved the short sale.

CLAIM

9. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 8 above, including subparagraphs.

10. The Defendant *in rem* is subject to forfeiture to the United States of America, pursuant to 18 U.S.C. § 981(a)(1)(C), as property constituting or derived from proceeds traceable to a violation of 18 U.S.C. § 1344.

RELIEF

Plaintiff, United States of America, respectfully requests that this Court issue a warrant for arrest of the Defendant *in rem*; that due notice be given to all interested parties to appear and show cause why forfeiture should not be decreed; that judgment be entered declaring the Defendant *in rem* condemned and forfeited to the United States of America for disposition according to law; and that the United States of America be granted such other and further relief as this Court may

deem just and proper, together with the costs and disbursements of this action.

Respectfully submitted,

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Dated: February 24, 2023

VERIFICATION

I, Milan Sucevic, am a Special Agent with the Federal Bureau of Investigation. I have read the foregoing Complaint for Forfeiture and declare under penalty of perjury of the laws of the United States of America that the facts contained therein are true to the best of my knowledge and belief, based upon knowledge possessed by me and/or on information received from other law enforcement agents and/or officers.



Special Agent Milan Sucevic
Federal Bureau of Investigation

Dated: 2/22/23